

**Notice of Allowability**

Application No.

10/014,428

Applicant(s)

OHTA, SEIYA

Examiner

Art Unit

Chriss S. Yoder, III

2622

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE filed 02/01/2007.
2. ☒ The allowed claim(s) is/are 1, 4-6, 9-13 (now renumbered 1-9).
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application                                |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                        |
|  | 9. <input type="checkbox"/> Other _____  |

## DETAILED ACTION

### *Election/Restrictions*

Claims 1, 4-6, and 9-13 are allowable. The restriction requirement among species, as set forth in the Office action mailed on September 21, 2005, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claims 12-13, directed to the photographing apparatus according to any one of claims 1, 4, and 11, are no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim. However, claims 7-8, which are independent claims directed to a photographing apparatus and an imaging apparatus, respectively, remain withdrawn from consideration because they do not require all the limitations of an allowable claim, and are further canceled below by Examiner's Amendment.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Gary Jacobs on February 15, 2007.

The application has been amended as follows:

Claims 7-8 have been canceled.

Claims 12-13 are amended to read:

12. A photographing apparatus according to any one of claims ~~1, 4, 7, and 8 to 11~~ 1, 4, and 9 to 11, further comprising a detector that detects whether said photographing apparatus is performing still picture photography or motion picture photography.

13. A photographing apparatus according to any one of claims ~~1, 4, 7, and 8 to 11~~ 1, 4, and 9 to 11, further comprising a selector that selects still picture photography or motion picture photography.

***Allowable Subject Matter***

Claims 1, 4-6, and 9-13 are allowed.

The following is an examiner's statement of reasons for allowance:

As for claim 1, the prior art does not teach or fairly suggest the use of an imaging apparatus having an image stabilizer that suppresses image blur of the imaging apparatus and a controller that selects a control frequency characteristic of said image stabilizer in response to a first determination means that determines which one of still picture imaging and a motion picture imaging is performed and a second determination means determining whether an image stabilization process is actuated, whether an operation switch is released, whether a first signal is generated in response to operating the operation switch, and whether a second signal is generated in response to operation of the operation switch.

As for claim 9, the prior art does not teach or fairly suggest the use of an imaging apparatus having an image stabilizer that suppresses image blur of the imaging apparatus and a detector that detects a vibration frequency using a predetermined vibration detection characteristic selected from among a plurality of vibration detection characteristics, wherein the vibration detection characteristic is selected based on whether the imaging apparatus is performing still picture imaging or motion picture imaging, whether an image stabilization function is turned off, whether an operation switch is released, whether a first signal is generated in response to the operation switch not being released, and whether a second signal is generated in response to the operation switch not being released.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chriss S. Yoder, III whose telephone number is (571) 272-7323. The examiner can normally be reached on M-F: 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CSY  
February 15, 2007

  
TUAN HO  
PRIMARY EXAMINER